

Ordinance No. 2020-04

**AN ORDINANCE AMENDING THE FLOYD COUNTY, INDIANA
ORDINANCE ESTABLISHING THE LEGACY FOUNDATION**

**AN ORDINANCE TO AMEND EXHIBIT A, THE LEGACY FOUNDATION
DOCUMENT; SPECIFICALLY, PARAGRAPH 17, AS AMENDED.**

**BE IT ORDAINED BY THE FLOYD COUNTY, INDIANA COUNTY COUNCIL
THAT:**

Section 1 Paragraph 17 of Exhibit A to the Ordinance Establishing the Legacy Foundation is amended as follows:

17. Compliance with Tax Laws. The following provisions shall apply to the conduct of the affairs of the Foundation.

- a. **Operation.** The Foundation shall be operated exclusively for charitable nonprofit purposes.
- b. **Restrictions on the Use of Foundation Property.** No part of the net earnings of this Foundation shall inure to the benefit of any private person or any other individual in contravention of Section 501(c)(3) of the Internal Revenue Code (the "Code") as may be in effect from time to time. Within the meaning of Section 501(c)(3) of the Code, no substantial part of the Foundation's activities shall consist of carrying on propaganda, or otherwise attempting to influence legislation. The Foundation shall not participate in or intervene in any political campaign on behalf of or in opposition to any candidate for public office (including the publishing or distributing of statements). Notwithstanding any other provision hereof to the contrary, (i) no power given to the Trustees or accorded to Trustees generally shall be construed to enable the Trustees or any other person to purchase, exchange, or otherwise deal with or dispose of the Foundation property, other than in furtherance of its charitable purposes as set forth in Section 4(a) hereof, for less than an adequate consideration in money or money's worth or shall permit the Trustees or any contributor to the Foundation to borrow any Foundation property, directly or indirectly; (ii) no person other than the Trustees shall have or exercise the power to direct the voting of any stock or other securities of the Foundation, to control the investment of the Foundation either by directing investments or reinvestments or by vetoing proposed investments or reinvestments, or to reacquire or exchange any Foundation property by substituting other property of an equivalent value; and (iii) the Trustees shall not use the Foundation property to pay premiums on insurance on the life of any Trustee or any contributor to this Foundation or for his or her spouse, or to provide support or maintenance for any person whom any Trustee or any contributor to this Foundation is legally obligated to support. Any restriction or declaration required by the Code to be contained in the organizing documents of a Foundation exempt from tax under Section 501(c)(3) of the Code that does not appear herein is hereby incorporated by reference.

- c. **Private Foundation Restrictions.** Notwithstanding anything to the contrary contained in this Instrument, in the event and if for any reason the Foundation is classified as "private foundation," as that term is defined in Section 509(a) of the Code, then and in such event and in order to comply with Section 508(e) of the Code and for so long as the Foundation may be deemed to be a "private foundation," the powers and activities of the Foundation in accomplishing the foregoing purposes shall be specifically subject to the following requirements, restrictions and limitations:
- i. **Prohibition Against Self-Dealing.** The Foundation shall engage in no act of self-dealing as defined in Section 4941(d) of the Code.
 - ii. **Minimum Distribution Requirements.** The Foundation shall distribute so much of its income, and, if necessary, its principal, for each taxable year, at such time and in such manner as to prevent the imposition of the tax for failure to make minimum distributions imposed by Section 4942 of the Code.
 - iii. **Retention of Excess Business Holdings.** The Foundation shall retain no excess business holdings as defined in Section 4943(c) of the Code.
 - iv. **Prohibition Against Jeopardizing Investments.** The Foundation shall make no jeopardizing investment that will subject it to tax under Section 4944 of the Code.
 - v. **Prohibition Against Taxable Expenditures.** The Foundation shall make no taxable expenditures as defined in Section 4945(d) of the Code.
- d. **Foundation Dissolution.** Upon dissolution of the Floyd County Legacy Foundation, the funds held therein shall be distributed to the fiscal body of the Floyd County local governmental unit as defined in Indiana Code Sections 36-1-2-6 and 36-1-2-23. If, for any reason, the local Floyd County governmental unit is no longer in existence, the funds shall be distributed to the fiscal body of a similarly situated local governmental unit governing Floyd County, Indiana or to a 501(c)(3) entity with a purpose substantially similar to that of the Floyd County Legacy Foundation.

Section 2 This Ordinance takes effect upon passage.

Adopted and passed this 11 day of August, 2020.

FLOYD COUNTY, INDIANA COUNTY COUNCIL

Those voting aye:

Don Best Debra Kube
Dan Short
Alvin
Paul Stuegel
Denise Konkle

Those voting nay:

Absent:

Attest:

Jacqueline Werning
Auditor